Supreme Court, U.S.
FILED
AUG 12 1987
JOSEPH F. SPANIOL, JR.
CLERK

(8)

87-320

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1987

JAMES THOMAS PATTERSON, SR., - Petitioner

vs

LAWRENCE L. AIKEN ET AL., - Respondents

-AND-

JAMES THOMAS PATTERSON, SR., - Petitioner

vs

DAVID H. FLINT ET AL., - Respondents

ON WRIT OF CERTIORARI TO

Court of Appeals State of Georgia

APPENDIX

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Submitted By: James Thomas Patterson, Sr.

Georgia Court of Appeals Opinion Case No. 73073. PATTERSON v. LANHAM et al (Aiken):

"James Thomas Patterson, Sr. brought an action against William C. Lanham, Stanley E. Sacks and the law firm of Sacks, Sacks & Larkin for legal malpractice. Plaintiff alleged defendants negligently represented him in various anti-trust lawsuits in which he did not prevail and, thereby, defendants breached their contract of employment. Defendants answered, denying the material allegations of the complaint and filed motions for summary judgment. In support thereof, defendants Lanham and Sacks submitted their affidavits wherein they deposed that they represented plaintiff in accordance with the standard of skill and care required by the legal profession generally under the circumstances in which they were confronted. Defendant law firm submitted the affidavit of Girard C. Larkin, Jr.,

an attorney who was associated with defendant law firm and is familiar with the representation which gave rise to plaintiff's claim for legal malpractice against defendants. Mr. Larkin deposed that defendants Sacks and Lanham and defendant law firm exercised actions which 'were in accordance with the standards of care and skill exercised by the legal profession generally under similar conditions and like surrounding circumstances, and that degree of care and skill exercised by the legal profession generally was adhered to by them and by me in every respect.'

Plaintiff opposed defendants' motion for summary judgment, but he did not bring forth expert evidence concerning defendants' want of professional skill and diligence. Instead, plaintiff responded in his affidavit deposing that he had been unable to locate any attor-

ney willing to provide an affidavit to refute the affidavits filed by defendants. The trial court granted defendants' motion for summary judgment based on uncontradicted affidavits filed by defendants and plaintiff appeals pro se. Held:

1. Plaintiff contends the trial court erred in failing to grant a continuance in order to allow him the opportunity to file affidavits in opposition to defendants' motion for summary judgment. 'We have held ' the grant or denial of a continuance is a matter within the discretion of the trial judge and unless clearly abused will not be interfered with. Smith v. Davis, 121 Ga. App. 704, 705 (175 SE2d 28). This applies in summary judgment proceedings. Code Ann. § 81-A-156 (f) (now OCGA § 9-11-56 (f)).' Calcutta Apts. v. Linden & Deutsch, 131 Ga. App. 743, 744 (206 SE2d 559)(1974).' Donehoo v. Phillips, 162 Ga. App. 671

(1), 672 (292 SE2d 542). In the case sub judice, after defendants filed their motions for summary judgment, over 3 1/2 months elapsed before the trial court entered its order granting defendants' motions. Under these circumstances, we find no abuse of discretion in the trial court's denial of plaintiff's request for additional time in which to file counter affidavits.

2. Plaintiff objects to the consideration of the affidavits filed by defendants on the grounds that only one of the attorneys, defendant Lanham, is a member of the State Bar of Georgia. The record shows that defendant Sacks and affiant Larkin are experienced attorneys and are licensed to practice law in the State of Virginia. Both defendant Lanham and affiant Larkin deposed that the skill and care utilized in the underlying lawsuits by defendants was compar-

able to that required in the legal profession generally. Under these circumstances, we find the affidavits in question sufficient as a matter of law to oppose plaintiff's allegation of legal malpractice. Kellos v. Sawilowsky, 254 Ga. 4 (325 SE2d 757).

Further, plaintiff contends that the affiants were not qualified as experts in the legal profession. 'Nothing more is required to entitle one to give testimony as an expert than that he has been educated in the particular trade or profession, although the special knowledge required to qualify as an expert may be derived from experience as well as study. See Dennis v. State, 158 Ga. App. 142, 143 (3) (279 SE2d 275); Carter v. Marble Products, 179 Ga. 122 (1), 124-125 (175 SE 480). Where one has been formally educated in a particular trade or profession additional experience by

application of that knowledge to a specific problem is not necessary in order to sustain one as an expert.' Intra-Roto, Inc. v. Guest, 160 Ga. App. 75, 76 (1) (286 SE2d 61). In the case sub judice, it is undisputed that the affiants have received intensive legal training and have been licensed to practice law in at least one state. Further, each affiant has had considerable experience in trial advocacy and, more specifically, defendant Sacks was recognized by plaintiff as being an expert in the field of anti-trust law. Under these circumstances, we find plaintiff's argument to be meritless. Affiants were properly qualified as experts in the field in which they formerly represented plaintiff.

3. Plaintiff asserts several convoluted arguments in support of his remaining enumeration of errors challenging the

propriety of the trial court's order granting summary judgment in favor of defendants.

'It is presumed that (defendants) performed legal services for plaintiff in an ordinary skillful manner. Hughes v. Malone, 146 Ga. App. 341, 246 (247 SE2d 107).' Mims v. Wardlaw, 176 Ga. App. 891 (3) (338 SE2d 866). This presumption was reinforced in the case sub judice by the affidavits filed wherein it was deposed that defendants represented plaintiff with the requisite degree of skill and care. 'In view of the failure of plaintiff to counter (defendants') evidence with expert legal testimony establishing the parameters of acceptable professional representation, the trial court properly granted (defendants' motions) for summary judgment. Howard v. Walker, 242 Ga. 406 (249 SE2d 45).' Mims v. Wardlaw, 176 Ga. App. 891 (3),

892, supra. See Thomas v. Carlisle, 179 Ga. App. 315, 316 (3) (346 SE2d 79). Judgment affirmed.

Georgia Court of Appeals Opinion Case No. 73940. PATTERSON v. FLINT et al:

"Legal Malpractice--Summary Judgment. In 1972 Patterson, together with others, incorporated Southway Theatres, Inc. Among other activites, Southway rented movies for display to audiences. Southway was an independent movie operator and experienced difficulty obtaining first run movies for display in its theatres. Patterson as chief executive officer became aware of the probability that movie producers and leasers were deliberately favoring their own franchised movie exhibitors and seeking to force independent operators out of business. Patterson, on behalf of Southway, retained the law firm of Schreeder, Wheeler and Flint to pursue a complaint

in the federal district court in Atlanta. The retention agreement was that the firm would be paid $25 per hour plus 30% of any recovery and expenses. Over the next ten years, the firm pursued the first filed lawsuit plus a second suit to preserve damages which occurred after the first suit. Over the period of the pretrial litigation, the law firm billed Southway for expenses of over $85,000. Patterson paid the firm more than $60,000 for the interim expenses. In an effort to arrange for payment of the remaining $25,000, the firm sought to modify the fee arrangements. The firm attempted to change the contingency agreement to a 50% contingency and waive any further hourly fees; to obtain a security deed on the theatre property; or to impose an interest charge on the unpaid balance. None of the fee arrangements proved acceptable or could be

satisfactorily arranged.

On March 26, 1984 the firm moved the district court to allow the firm to withdraw further representation of Southway for failure to pay attorney fees. When Patterson objected to the firm's withdrawal, the district court allowed Patterson approximately six months in which to retain substitute counsel. Finally on September 27, 1984 the district court granted the firm's motion to withdraw. Southway was still unable to locate counsel, and in April, 1985, the firm was allowed to withdraw in the second case. On March 22, 1985 the district court dismissed the first action for want of prosecution. Subsequently, the second suit was dismissed for the same reason.

In May, 1985, Patterson lodged a complaint with the Georgia Bar Association against the firm and its members. When prompt action was not taken, Patterson

filed suit in the federal court against the judges, the attorneys, attorneys who declined to enter into a representative capacity in the four cases brought by Patterson, the State of Georgia, and the State Bar of Georgia. The federal court dismissed that complaint as being frivolous. Patterson then filed pro se (in addition to similar actions) the present complaint against the firm of Schreeder, Wheeler and Flint as well as against Wheeler and Flint individually. In his complaint Patterson contended the firm and the individual attorneys acted in a professionally derelict and improper manner amounting to legal malpractice. He also complained the attorneys had breached their contract of representation. Patterson had spent thousands of hours (he asserted) in assistance and preparation of legal documents; thus he claimed $200,000 in equitable relief for

services performed.

After extensive discovery, the attorneys filed for summary judgment. The trial court granted summary judgment to the firm and individual attorneys. The court concluded that in essence the entire suit was based in contentions of legal malpractice. The defendant attorneys (Wheeler and Flint) affirmed they had exercised professional conduct comporting with that ordinarily exercised by members of the legal profession generally as well as that exercised by members of the Georgia Bar. Patterson, even after the passage of more than 90 days was unable to obtain an attorney willing to undertake representation; thus Patterson answered the motion for summary judgment pro se. The trial court based its grant of summary judgment to the attorneys upon the failure of Patterson to offer expert legal opin-

ion as to the alleged legal malpractice. Patterson filed this appeal enumerating 11 asserted errors. Held:

In substance Patterson argues that he (Patterson) pointed out in his brief many arguable shortcomings in the representation by the two attorneys. Thus Patterson contends the trial court should have evaluated the allegations of legal malpractice in terms of the specific assertions of failure to act or because of improper actions. He argues that if the individual acts of asserted malpractice are considered, the alleged malpractice is blatant, i.e., clear and palpable, and thus does not require expert evidence to establish malpractice. In the same light he urges the trial court erred in accepting the generalized assertions by the attorneys (Wheeler and Flint) that they performed their duties of representation in a legally professional manner

and within the accepted standards of legal representation. Patterson contends the contentions of competency should have met the individual allegations of malpractice and that the generalized statements of competency of representation went to the ultimate issue and invaded the province of a jury. Patterson also argued that the evidence before the trial court showed that he (Patterson) should have been accepted as an 'expert' because Patterson established he had spent "1,000's" of hours assisting the attorneys.

In its order granting summary judgment to the attorneys, the trial court made certain non-essential observations. The court observed that because Patterson sought to control the conduct of the trial proceedings, it was Patterson who was seeking to practice law and even considering the terms of the contract as

binding, the court believed the contract was against public policy. Patterson made much of a divergency of opinion as to whether the contract of representation provided for 'a satisfactory and successful' resolution of the lawsuit rather than a 'just' resolution. Patterson also contended that by withdrawing before there had been a just resolution of the litigation, Wheeler and Flint breached ethical rules by not providing him with substitute counsel to continue the litigation. Patterson also argues in this appeal the trial court ignored the provisions of the complaint that sought damages for the equitable and contractual violations. Lastly Patterson argues that the trial court erred in concluding that Patterson lacked standing because the dispute was between Southway and the attorneys and that there was no justification for the court's conclusion

that the reason Patterson could not obtain legal representation was the lack of merit to Patterson's claim.

We have taken opportunity to set forth the errors enumerated by Patterson because of an unusual feature in this case. In his statement of jurisdiction in the Court of Appeals for this case, Patterson acknowledges: "The Supreme Court..declined jurisdiction in the case of James Thomas Patterson, Sr. v. Lawrence L. Aiken, et al. That case raised most of the same issues that are raised in this case. That case was docketed as Georgia Court of Appeals Case No. 73073, Patterson v. Lanham, et al."

Because in every case coming before this court, we are required to examine the record to make certain we possess jurisdiction (Stephenson v. Futch, 213 Ga. 247, 248 (98 SE2d 374); Venable v. Block, 138 Ga. App. 215, 218 (225 SE2d

755)), we have examined the record and pleadings in the case of Patterson v. Lanham Ga. App. (Case No. 73073, decided March 17, 1987). At the invitation of Patterson and, within our inherent powers to do so, we take notice of the records of this court while considering the immediate case before us (see Ammons v. Central of Ga. R. Co., 215 Ga. 764 (113 SE2d 443); Baker v. City of Atlanta, 211 Ga. 34 (3) (83 SE2d 682); and L.K.F. v. State of Ga., 173 Ga. App. 770 (1) (328 SE2d 394)), we concur that most of the issues raised in the case sub judice were raised, considered and disposition made thereof in the Lanham case, supra. There this court, in considering the same issues presented in the case sub judice, held that there was no error in failing to grant Patterson more time to obtain the services of an attorney as replacement for Lanham's

firm nor did counsel violate any special duties owed to Patterson. In response to the errors that we have set forth in detail in our opinion herein, this court in Lanham, supra, consolidated these several similar enumerations referring to them as 'several convoluted arguments' (our examination thereof reflects they are indeed the same assertions in principle) challenging the propriety of the trial court's order granting summary judgment in favor of the attorney defendants in that case. Disposition of these 'convoluted' errors was effectuated by the ultimate holding. In Lanham, supra, it was held that the affidavits of the attorney defendants involved was a sufficient showing of professional competence. Patterson's failure to bring forth expert evidence concerning the defendants' (Wheeler and Flint) want of professional skill and diligence

(notwithstanding his inability and indeed because of his failure to provide an affidavit other than his own to refute the affidavits filed by the attorneys) required the grant of summary judgment to the attorneys. The trial court in this case was faced with the same situation. Perforce we are bound by the same rules of law. Independently and in view of the precedential holding in the Lanham case, supra, we find no error in the grant of summary judgment to Flint and Wheeler and their firm.

Though there are some issues raised in this case that were not considered in Lanham, supra, those issues are peripheral to the controlling issue, i.e., that Patterson failed to provide an offsetting affidavit of legal malpractice. These unaddressed issues are rendered moot by the affirmance of the grant of summary judgment and do not require

explication in this opinion except to observe that each is without substantial merit. Judgment affirmed.

Fayette Superior Court Order Case No. 85V-284. PATTERSON v. AIKEN et al:

"James Thomas Patterson, Sr. filed this complaint in the Superior Court of Fayette County, Georgia, contending that the defendants above named are indebted to him in the sum of $92,250,000.00. The basis of his claim in that the defendants, who are attorneys at law, previously represented him in various lawsuits which were litigated in the Federal court system, and in all of which the opposing parties prevailed. Mr. Patterson now contends that said attorneys were guilty of negligence in his representation, breached their contracts of employment with him, and are, consequently, guilty of malpractice. This complaint was filed on October 4th, 1985.

It appears from the record that Mr. Patterson, on July 15, 1985, filed an action in the Atlanta Division of the United States District Court for the Northern District of Georgia, in which he sued 15 attorneys, including the present defendants, three Federal District Court Judges, the State of Georgia, and the State Bar of Georgia, seeking recovery of $350,000,000.00. That complaint was dismissed as frivolous on July 31, 1985. Two of Mr. Patterson's contentions in the Federal complaint were deemed to set forth causes of action only proper to be pursued in a State court action; hence this complaint.

The defendants in the present case filed their answers, all setting forth several defenses. Lanham, Sacks, and the law firm of Sacks, Sacks, and Larkin also, on November 15, 1985, filed their motions for summary judgment, the basis

for said motions being that this Court has no jurisdiction of their persons, and further that their conduct in the representation of Mr. Patterson met all legal requirements, i.e., that their representation of Mr. Patterson was in accordance with the standard of care and skill exercised by the legal profession generally under similar conditions and like surrounding circumstances and that degree of care and skill exercised by the legal profession generally was adhered to by them in every respect. This evidence, submitted on the motions, was by way of affidavits of defendants Lanham, Sacks and Attorney Larkin. Mr. Lanham and Sacks are, of course, attorneys.

Mr. Patterson, who is not an attorney, only responded to defendants' 'care and skill' affidavits by saying that as of November 4th, 1985, the date of his response affidavit, that he had been unable

to locate any attorney willing to provide an affidavit to refute that filed by the defendants. He states that he has discussed the matter with several attorneys, but has not found anyone willing to give a counter affidavit. He states that he will continue to search for a legal expert to assist him, and if he is unable to find one, "...I will serve a subpoena upon an appropriate attorney in order to obtain testimony as to what constitutes acceptable attorney practice in the State of Georgia, (and that he) will use that testimony, along with the canons set forth in the Georgia law authorizing the licensing of attorneys, to show at trial the standard against which the conduct of the defendants should be judged."

Mr. Patterson further contends that defendants' motions for summary judgment are premature, citing OCGA § 9-11-56(f), which states:

"(f) When affidavits are unavailable. Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavits facts essential to justify his position, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had, or make such other order as is just."

Mr. Patterson's reliance upon the above code section is inapposite. One hundred and twenty-seven days have elapsed since the present motions were filed, and the record fails to reflect that plaintiff has made any effort to procure and file an affidavit in opposition to defendants' affidavits, other than as stated above, nor has he sought an order for a continuance to permit affidavits to be obtained or depositions to be taken or discovery

to be had. Further, to delay determining the present motions so that plaintiff can "show at trial" wherein defendants erred would be to defeat the purpose of our summary judgment procedure, the same being to allow a party to pierce the allegations of the pleadings, show the truth to the court, and receive judgment where there is no genuine issue of material fact, although an issue might be raised by the pleadings. Scales v. Peevy, 103 Ga. App. 42 (1962).

To delay disposing of the present motions under the provisions of OCGA 9-11-56(f) would be an abuse of discretion.

In order to prevail under a trial, plaintiff would have the burden of showing that defendants' services were lacking in due care, skill and diligence. The presumption is that legal services are so rendered. Hughes v. Malone, 146 Ga. App. 341, 344, 345 (1978); Kellos v.

Sawilowsky, 172 Ga. App. 263 (1984). The proof to overcome the presumption, ordinarily, is that given by experts. Hughes, Kellos, supra.

On a motion for summary judgment, in a legal malpractice case, when the defendant-attorney produces an expert's opinion in his favor and the plaintiff fails to produce a contrary expert opinion in opposition to that motion, then there is no genuine issue to be tried by the jury and it is not error to grant summary judgment to the defendant. This is true in any case where the plaintiff must produce an expert's opinion in order to prevail at trial. Howard v. Walker, 242 Ga. 406, 408 (1978); Hardinger v. Park, 159 Ga. App. 729 (1981).

The defendant/attorney moving for summary judgment in a legal malpractice case may rely on his own affidavit, submitted in his capacity as an expert,

that he was not negligent, and to avoid summary judgment, the plaintiff must then produce expert testimony to the contrary. See Hardinger, et al. v. Park, et al., 159 Ga. App. 729 (1981); Parker v. Knight, 245 Ga. 782 (1980); Payne v. Golden, 245 Ga. 784 (1980); Nettles v. Laws, 172 Ga. App. 241 (1984); Jackson v. Gershon, 165 Ga. App. 492 (1983).

Applying the above stated law to the facts now before the court upon consideration of Defendants' motions for summary judgment, this court finds that there is no genuine issue for material fact remaining for jury consideration and determination as to plaintiff's contentions recording the conduct of attorneys William C. Lanham, Stanley E. Sacks and the law firm of Sacks, Sacks & Larkin, and their respective motions for summary judgment are hereby granted. There being no just reason for delay it is directed

that judgment be entered in their favor.

By reason of having disposed of said motions upon the 'due care' grounds, it is unnecessary to consider defendants' contention that this court lacks jurisdiction of their persons.

This 20th day of March 1986.

Andrew J. Whalen, Jr., Judge

Superior Courts, Griffin Judicial Cir.

Fulton Superior Court Order Case No. D-23213. PATTERSON v. FLINT, et al:

"The Defendants' motion for summary judgment on the main cause and on the counterclaim came on for oral argument as did the plaintiff's motion for summary judgment on the defendants' counterclaim; after hearing oral argument and considering the entire record, the court rules:

1. Plaintiff's theories of liability both for breach of contract and for legal malpractice arise from identical facts material to the professional relationship, rights,

duties and obligations, requiring the establishnent of the professional standard of care, duties, rights and obligations and showing a deviation from such standards. While Plaintiff seeks liability for breach of contract, the alleged contract is not in writing and is only memorialized for purposes of the parol evidence rule by confirmatory letter requiring the terms to be fleshed out by professional standards. Plaintiff has failed to obtain either an affidavit or deposition from a legal expert which either establishes the standard of care or which refutes Defendants' own affidavits that they have complied with the standard of care. Having pierced Plaintiff's pleadings in contract and tort, the Defendants are entitled to judgment as a matter of law because Plaintiff has failed to produce expert legal testimony to create a material issue of fact for the jury.

2. Even if Plaintiff had expert testimony,

the issues of legal malpractice and breach of contract must as a matter of law be decided against him.

3. Plaintiff lacks standing and authority to assert individually the claims, if any, of his corporation in tort and contract arising from the Defendants' representation of his corporation; Plaintiff did not, under the facts of this case, rely upon acts or omissions of the Defendants rendered for the benefit of a third party to his individual detriment such as to avoid any privity required.

4. Plaintiff contends that the Defendants had a contract with his corporation which required them to litigate the claim to a satisfactory and successful conclusion and that by withdrawing from the representation both a breach of such contract arose and acts of professional negligence occurred. Georgia public policy has always overriden and voided contracts which were illegal, immoral or unethical, O.C.G.A. 13-8-2. The Code of Profess-

ional Responsibility, Canon 2, DR2-110, Withdrawal from Employment, 252 Ga. 581, 599-600, governs both mandatory and permissive withdrawal of attorneys from representation of a client and from representation particularly in Court. An employment contract of a lawyer which seeks to negate or to circumvent either directly or indirectly such directory rule regarding termination of employment would undermine the ethical basis of representation and would be void ab initio. Therefore, if Plaintiff had such a contract, then it was unenforceable as againt public policy.

5. While DR2-110 recognizes, as does the case law, that an abandonment of a client in such a fashion as to place litigation or rights in peril may not only breach the professional contract but be a professional violation of the standard of care, the evidence showed that Defendants gave two weeks notice of their petition to withdraw before

the pretrial hearing which was continued as a result and that the Court's order permitting counsel to withdraw was delayed more than six months because of Plaintiff's opposition. The dismissal for want of prosecution came between nine and ten months after Defendants' initial motion to withdraw. Defendants fully satisfied DR2-110, and the dismissal for failure to prosecute resulted from Plaintiff's failure to obtain other representation and not by Defendants' action. The sole proximate cause of Plaintiff's corporation's injuries and damages clearly and palpably was Plaintiff's failure to act with due diligence.

6. Plaintiff's additional grounds for breach of contract and professional malpractice are that Defendants failed to follow his directions as to procedure, strategy and discovery and specifically as to granting or obtaining continuances and as to the motion for sanctions for willful failure to make discovery

in contravention of a discovery order. under EC7-7, EC7-9, EC7-10 and DR7-101(A)(1) and (B)(1)(2), DR7-102, while an attorney has a duty to act on his client's behalf with zeal, he must govern and control his conduct of the case from his understanding of the code of professional responsibility and his professional judgment. "In the exercise of his professional judgment on those decisions which are for his determination in the handling of a legal matter, a lawyer should always act in a manner consistent with the best interest of his client. However, when an action in the best interest of his client seems to him unjust, he may ask his client for permission to forego such action (EC7-9)." "In his representation of a client, a lawyer may: (1) where permissible, exercise his professional judgment to waive or to assert a right or position of his client; (2) refuse to aid or participate in conduct that he believes to be unlawful, even though there is

some support for an argument that the conduct is legal . . but he may withdraw as permitted . . (DR7-101(A)(2) and (B)(1)(2))."

Litigation and the trial of cases is an art and not a science governed by professional judgment, training, experience and legal ethics and a layman, although he be the client, must not control such decisions except insofar as to govern waiving claims to damages, affirmative rights, affirmative defenses, settlement or entry of judgment.

If Defendants had no other reason to withdraw from representation the client's insistence upon directing the preparation and trial of the case as opposed to setting the ultimate objectives contrary to counsel's advise would not only justify but would require withdrawal because counsel could no longer zealously represent the client.

Any real or imagined damages which could flow from failure to follow the client's instructions are too remote for recovery be-

cause Plaintiff's failure to timely obtain other representation was the clear and palpable proximate cause of any damages into which any damages resulting from such alleged breaches must merge.

7. The Plaintiff's Motion for Summary Judgment and Defendants' Motion for Summary Judgment as to the counterclaim are denied because there exists material issues of fact as to the modification of the terms of the compensation contract.

8. Plaintiff in representing himself has shown as much skill, knowledge and insight as many lawyers and his inability to obtain other representation or expert witnesses lies in the fundamental lack of merit to his claim in law rather than in fact. The facts undisputed do not and cannot support an action for either breach of contract or legal malpractice without even examining the necessity for the reasonable likelihood of success on the underlying case. In short, a lawyer could do no bet-

ter nor could he or she under oath swear that the facts of this case constituted a deviation from the standard of care.

9. Since Plaintiff has ably represented himself so far, then there is no reason to believe that he cannot do as well upon appeal of this case; this case presents fundamental and basic issues to a lawyer's right and duty to control litigation and to withdraw either for client's failure to pay or for interfering with the control of the litigation. Plaintiff must file a notice of appeal with the Clerk of this Court within thirty (30) days of the entry of this order and upon notice pay the costs of the record and this case as well as the filing fee in the Court of Appeals; failure to timely appeal will bar subsequent litigation or appeal of such issues.

The Court finds, in its considered discretion, that there is no just reason for delay of the entry of this judgment and orders and directs that the Clerk immediately enter said

judgment upon the minutes of the Court.

Ordered this 20th day of March, 1986.

Frank M. Eldridge, Judge

Fulton Superior Court-Atlanta Circuit

COURT OF APPEALS

of the State Of Georgia Atlanta Mar. 30, 1987

The Honorable Court of Appeals met pursuant to adjournment. The following order was passed:

73073. James Thomas Patterson, Sr. v. William C. Lanham et al. (Aiken case) Upon consideration of the motion for a rehearing filed in this case, it is ordered that it be hereby denied. Court of Appeals of the State of Georgia. Clerk's Office, Atlanta Mar. 30, 1987. I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia. Witness my signature and the seal of said court hereto affixed the day and year written above. Victoria McLaughlin - Clerk.

COURT OF APPEALS

of the State of Georgia Atlanta April 16, 1987

The Honorable Court of Appeals met pursuant to

adjournment. The following order was passed:

73940. James Thomas Patterson, Sr. v. David H. Flint et al. Upon consideration of the motion for a rehearing filed in this case, it is ordered that it be hereby denied.

Court of Appeals of the State of Georgia. Clerk's Office, Atlanta April 16, 1987.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia. Witness my signature and the seal of said court hereto affixed the day and year written above. Victoria McLaughlin - Clerk.

CLERK'S OFFICE, SUPREME COURT OF GEORGIA

(Aiken) Atlanta May 7, 1987

Case No. 44553 Patterson v Lanham et al.

The Supreme Court today denied the writ of certiorari in this case. All justices concur.

Very truly yours, Jolin B. Williams - Clerk

CLERK'S OFFICE, SUPREME COURT OF GEORGIA

Atlanta May 7, 1987

Case No. 44631 Patterson v Flint et al.

The Supreme Court today denied the writ of

certiorari in this case. All justices concur.

Very truly yours, Joline B. Williams - Clerk

CLERK'S OFFICE, SUPREME COURT OF GEORGIA

(Aiken) Atlanta June 17, 1987

The motion for a rehearing was denied today.

Case No. 44553 Patterson v Lanham et al.

Very truly yours, Joline B. Williams - Clerk

CLERK'S OFFICE, SUPREME COURT OF GEORGIA

Atlanta May 27, 1987

The motion for a rehearing was denied today.

Case No. 44631 Patterson v Flint et al.

Very truly yours, Joline B. Williams - Clerk

Clarke, P.J., not participating

Submitted BY: James Thomas Patterson Jr.

James Thomas Patterson, Sr.

Certificate of Service

I certify that copies of this Appendix have been mailed using first class postage to the attorneys of record for the Respondents.

James Thomas Patterson Jr.

James Thomas Patterson, Sr.

Subscribed and Sworn to me this 22nd day of August, 1987

Notary Patricia M. Patterson

Notary Public, Georgia, State At Large
My Commission Expires Sept. 27, 1987